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BANNER & WITCOFF
1001 G Street, N.W., Suite 1100
Washington, DC 20001

In re Application of :
GROSS, Yossi *et al* :
U.S. Application No.: 10/522,615 :
PCT No.: PCT/IL2003/00631 :
Int. Filing Date: 31 July 2003 :
Priority Date: 31 July 2002 :
Attorney Docket No.: 001205.00002 :
For: DELIVERING COMPOUNDS TO THE :
BRAIN BY MODIFYING PROPERTIES :
OF THE BBB AND CEREBRAL :
CIRCULATION :

DECISION

This decision is in response to the "Petition Under 37 C.F.R. § 1.47(a)" filed 30 May 2006. No additional fee is required.

BACKGROUND

On 26 April 2006, a decision dismissing applicants' petition under 37 CFR 1.47(a) was mailed. Petitioners failed to satisfy item (2) of 37 CFR 1.47(a).

On 30 May 2006, petitioners submitted the subject renewed petition which was accompanied by, *inter alia*, a copy of a letter from the nonsigning inventor with an English translation.

DISCUSSION

In the renewed petition, petitioners have submitted a copy of a letter by Dr. Shalita verifying that he received certain documents submitted and has conditioned his signing the documents on receiving money from applicants.

This is treated as a written refusal to cooperate. Section 409.03(d) of the MPEP discusses a refusal by an inventor and states, in part:

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the

nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. . . . It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Previously, petitioners provided evidence showing that a declaration and assignment documents were sent to Dr. Shalita on 22 December 2005. The letter by Dr. Shalita letter submitted in the renewed petition verifies receipt of those documents. However, petitioners have not provided any evidence that Dr. Shalita was presented with a complete copy of the application. As stated above, a complete copy of the application must be provided to the nonsigning inventor for a refusal to be accepted.

For this reason, item (2) of 37 CFR 1.47(a) is not yet satisfied.

It is noted that if the nonsigning inventor does not accept delivery of the application documents, or respond in a timely manner to a deadline given to sign, this conduct would then be sufficient to show a refusal.

CONCLUSION

The renewed petition under 37 CFR 1.47(a) is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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